

REMARKS/ARGUMENTS

Claims 1-7, 9-12 and 14-19 remain in this application. Claim 8 is canceled. Claims 13 and 20-24 are withdrawn.

In view of the Examiner's earlier restriction requirement, applicant retains the right to present claim 13 or claims 20-24 in a divisional application.

In the Office Action, Examiner rejects the matter of claims 1-5 and 10-12 under 35 USC 102(b) for being anticipated by US 5,854,863 (Erb, et al) and rejects the matter of claim 6 under 35 USC 103(a) for obviousness by the combined disclosure of US 5,854,863 and US 5,747,348 (Jaduszliwer, et al). In addition, Examiner objects that claims 7-9 and 14-19 are multiply dependent.

In response to the Office Action, Applicants amend claims 1 and 11 to include the limitations of claim 8. Claim 14 is amended to better define the present invention. Claims 6-9, 14 and 16 are amended so that the claims are singly dependent. In addition, the withdrawn claims are also amended as marked.

The present invention as defined in claim 1 relates to a sensor comprising: a least one fibre optic member having at least one unclad portion; a coating applied to the at least one unclad portion; a precursor immobilized within the coating, said precursor is transformable by the at least one microorganism; wherein transformation of the precursor produces a spectroscopically detectable indicator of transformation of a biochemical analyte by at least one microorganism.

Erb (US 5,854,863) discloses a sensor made up of an optical fibre, whose surface is treated with an amorphous fluoro-polymer (such as Teflon-AF) so as to reduce/eliminate the binding of non-specific constituents on the optic fibre (see column 4, lines 42-65; column 10, lines 22-57). However, Erb does not disclose a precursor that is immobilized within a coating at the unclad portion of the optic fibre such that transformation of the precursor produces a spectroscopically detectable indicator. Erb also does not teach or suggest such a precursor for use with the optic fibre sensor. Since the feature of the precursor being immobilized within a coating on the unclad portion of the sensor is not disclosed or taught by Erb, Applicants respectfully submit that this feature is new and non-obvious and, therefore, traverse the Examiner's rejection under 35 USC 102(b).

Jaduszliwer (US 5,747,348) discloses an optic fibre sensor for detecting hydrazine, nitrogen tetroxide and nitrogen dioxide. Although Jaduszliwer discloses the use of porous glass or polymer impregnated with phosphomolybdic acid (PMA) as a fuel indicator, Jaduszliwer does not teach or suggest the use of a precursor that is transformable by a microorganism such that the transformation of the precursor produces a spectroscopically detectable indicator.

Applicants respectfully believe that the four-steps test in *Graham v John Deere* would prove that it is not obvious for a skilled person to arrive at the matter defined by independent claim 1, 11 or 14 when given the disclosures of Erb and Jaduszliwer. As such, Applicants respectfully submit that the matter of independent claim 1, 11 or 14 is

non-obvious and specifically traverse the Examiner's rejection of claim 6 under 35 USC 103(a).

Accordingly, the matter of claims 2-7, 9-10, 12 and 15-19 being dependent on claim 1, 11 or 14 should then be novel and non-obvious in light of the disclosures of Erb and Jadusziwer. Therefore, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

In paragraph 13, Examiner notes that there are joint inventors in this patent application. Applicants affirm that the present invention was developed jointly at the same time. As such, the matter of all the claims has a common priority date.

A petition to extend the time period pursuant to 37 CFR1.136(a) for a period of three months (from January 14, 2009) for filing this response is attached. Attached are also copies of completed Credit Card Payment Form and Fee Transmittal sheet.

Respectfully submitted.

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